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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,661	02/23/2004	N. David Crow	BIT 203-01	2676
7590 02/27/2006 Christopher A. Wiklof 3531 99th St. SE Everett, WA 98208			EXAMINER DONAHOE, CASEY D	
			ART UNIT 3732	PAPER NUMBER
DATE MAILED: 02/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/785,661	CROW, N. DAVID	
	<b>Examiner</b>	<b>Art Unit</b>	
	Casey Donahoe	3732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11,17-20,22 and 25-40 is/are rejected.
- 7) ☒ Claim(s) 4,12-15,21,23 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/23/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION*****Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the manner in which the mount is adapted to couple to a mounting point supported by the patient's chair (claim 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 36 is objected to because of the following informalities: "includes an affixed to the nose post" is improper English. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25, 27, and 28-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 25 and 27, claim 25 claims a holder in the preamble for the intended use of coupling articulating film, yet, the holder itself is said in the claim body to include "a flexible film", which Examiner believes to be the same as the articulating film, according to the specification. Hence, there is not a one-to-one correspondence between the preamble and the body of the claim, and it is unclear as to whether the articulating film provides a positive limitation. The claim language should be modified so that the preamble claims an apparatus including the articulating film or the structural limitations referring to the film should be removed.

Regarding claims 28-40, claim 28 recites the limitation "the connector rod" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig et al. (US 4,185,384) in view of Coffey (US 2,452,903)

Regarding claim 1, Lustig et al. discloses an articulating film receiver, but fails to disclose a mount, mechanical coupling, or articulating film holder for coupling the articulating film holder relative to the patient. Coffey discloses a device including a mount (19 and 22), a mechanical coupling (14, 15, 23, 24), and an impression tray holder (12, 13) coupled to an impression tray (C). Because the device provides constant and uniform pressure on the tray against the upper jaw, it allows the dental practitioner to create uniformly accurate impressions, with a minimum amount of manual effort, skill, and care (63-67). Because articulating film is also pressure sensitive and requires careful, stable, and accurate positioning in the mouth, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the articulating film receiver disclosed by Lustig et al. to couple to a holder, mechanical coupling, and mount, such as that disclosed by Coffey. Such a device would allow more accurate articulating film measurements to be taken because of the stable

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positioning and constant pressure, with a minimum amount of effort, skill, and care.

Regarding claims 2, 3, 5, 6 and 11, the mount of the device disclosed by Coffey provides a structure that could easily be clamped to a mechanical mounting point on a pair of glasses or a mounting point supported by the patient's chair.

Regarding claims 7, 8, and 9 the device disclosed by Coffey includes a moveable joint (at plates 14 and 15), which allows for the adjustment of the position of the impression tray or articulating film receiver (column 2, lines 7-39). The mechanical coupling and articulating film holder cooperatively allow for adjustment of the articulating film position.

Regarding claim 10, the mechanical coupling comprises flexible spring members (23, 24).

Claims 16, 17, 19, 20, 22, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig et al.

Regarding claims 16, 17, 22, 25, and 26, Lustig et al. disclose an articulating film (11) having at least one marking surface and forceps (43) mechanically clamped along the edge of the articulating film to form an articulating film receiver. The forceps are inherently disposable and includes one elongate member folded into two members which abut each other. Lustig et al. fail to disclose that the articulating film assembly is packaged. It is extremely well known in the dental art to package dental articles so that they may be sold to dentists, especially intra-oral articles to protect the patient from contamination. It would have been obvious to one of ordinary skill in the art at the time

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of the invention to package the articulating film assembly disclosed by Lustig et al. to protect it from contamination when it is sold and delivered to the dentist prior to use.

Regarding claims 19 and 20, the forceps extend to form a holding tab (20) that extends a distance outside the patient's mouth and which could be received by an articulating film holder.

Claims 18, 22, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig (US 4,472,140)

Lustig discloses an articulating film (12) having at least one marking surface and forceps 22.1, 22.1) affixed by adhesive means along one edge of the film to form an articulating film receiver. The forceps are inherently disposable and includes two members folded so that they abut each other. Lustig fails to disclose that the articulating film assembly is packaged. It is extremely well known in the dental art to package dental articles so that they may be sold to dentists, especially intra-oral articles to protect the patient from contamination. It would have been obvious to one of ordinary skill in the art at the time of the invention to package the articulating film assembly disclosed by Lustig to protect it from contamination when it is sold and delivered to the dentist prior to use.

***Allowable Subject Matter***

Claims 4, 12-15, 21, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McCarthy et al. (US 3,126,631), Barsha (US 1,910,740), Mueller (US 6,095,815), Stark (3,421,223), Stubbins (US 1,409,038), Sahr (US 2,315,660), Matsutani (US 6,361,316), Wilkinson (US 3,024,534), Ludlum (US 1,505,792), Hatzky (DE 004307496 A1), Jermyn (US 5,332,391), Duret et al. (US 5,143,086), and Skinner (US 6,629,841)



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Casey Donahoe whose telephone number is (571) 272-2812. The examiner can normally be reached on Monday - Thursday (7:30 - 5:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272 -4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CND  
2/21/06

Casey Donahoe  
Examiner  
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